

LET'S TALK

MARIJUANA, PEYOTE AND
ADDERALL

Tribal Law & Policy Institute
Tribal Court Enhancement Training
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OBJECTIVES

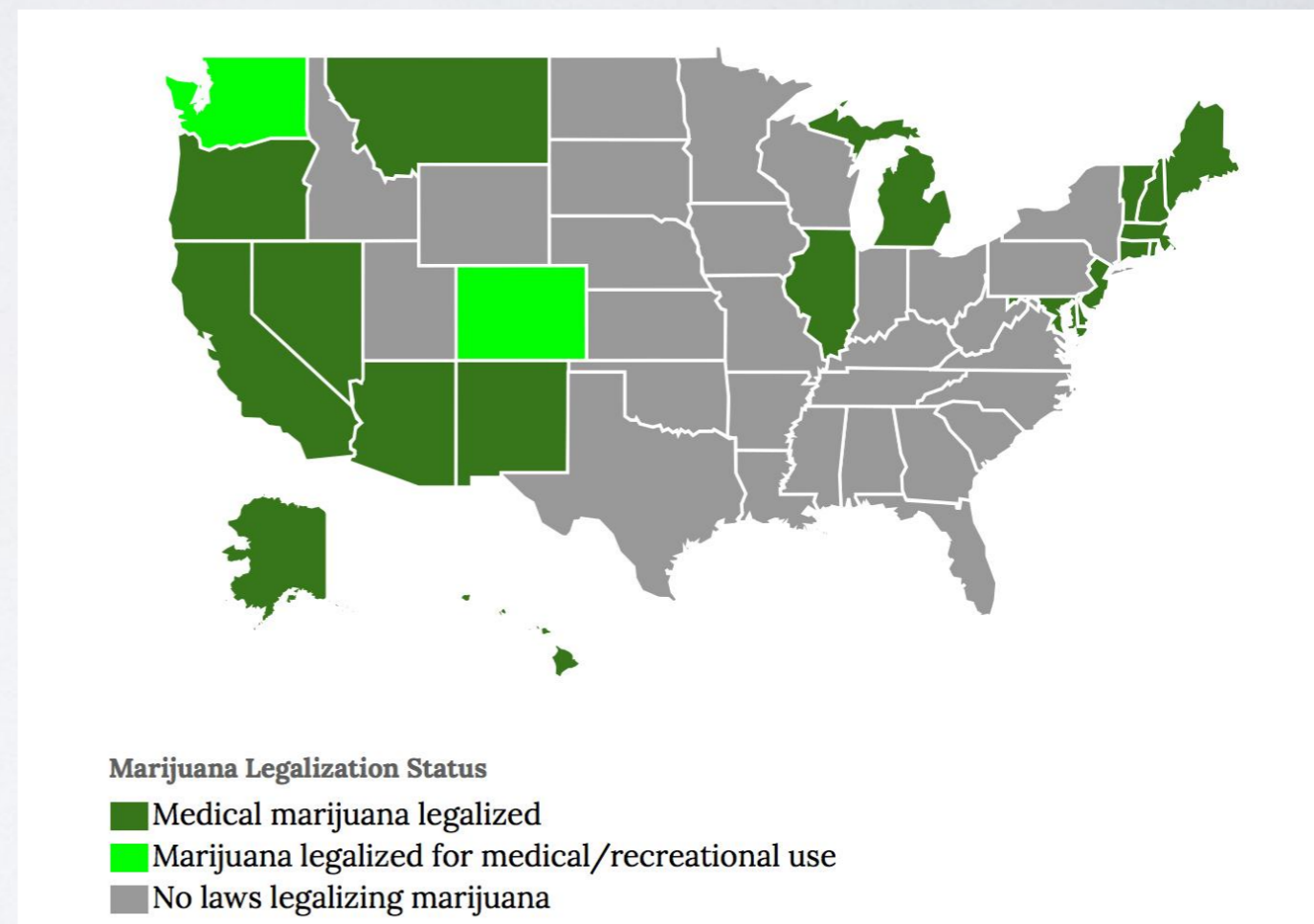
- Discussion
- Issues
- Concerns
- What's Coming
- Policy Development



MARIJUANA

LEGALIZED MARIJUANA

- 23 states and D.C. have legalized marijuana
- 4 states and D.C. legalized recreational use
- Some states have decriminalized private use
- Some have medical marijuana authorized
- Some allow possession of cannabis oil



As of June 19, 2015

WHAT ABOUT IT?

- Mind altering psychoactive drug
- Short term effects: problems with memory and learning, distorted perception, difficulty thinking and problem-solving, and loss of coordination
- Long Term Use: psychological dependence and withdrawal after discontinuation

- Effect on the body: sedation, blood shot eyes, increased heart rate, coughing, increased appetite and decreased blood pressure. Increased risk of cancer of the head, neck, lungs and respiratory tract
- Withdrawal: restlessness, irritability, sleep difficulties, decreased appetite, headache, shakiness, sweating, stomach pains and nausea

- Abuse: smoking - joint or blunts and can be mixed with food or brewed as tea
- Individuals report: dizziness, nausea, merriment, disinhibition, relaxation, time distortions, impaired judgment, increased risk-taking behavior, disorganized thinking, agitation, paranoia and panic attacks

MARIJUANA CONCENTRATES

- Highly potent concentrated mass
- "honey oil" or "budder"
- butane extraction process - highly flammable
- Infused in food or drinks and may be smoked as e-cigarette or vapors
- Smokeless, odorless
- Easy to conceal
- Effect more intense

MEDICAL MARIJUANA - ARIZONA

- Qualifying patient with listed condition with written certification from a physician
- Physician-patient relationship
- Apply for registry card
- 10 working days and good for 1 year
- Possess 2.5 ounces of usable marijuana or 12 plants

PRACTICAL CHALLENGE

- Employment issues: Arizona Medical Marijuana Act - employer may not penalize a qualifying patient with a card for positive drug test, unless the employee used, possessed, or was impaired by marijuana on the employment premises or during hours of employment.
- Drive: Cannot drive a motor vehicle while under the influence

CHALLENGE FOR YOU

- Participant with qualifying illness with certification card
- Social acceptance of marijuana use
- NADCP Position:
 - Opposes legalization - research related reasons
 - Supports prohibitions in Drug Courts consistent with EBP for positive drug tests
 - “Recommends Drug Courts require convincing and demonstrable evidence of medical necessity presented by a competent physician with expertise in addiction psychiatry or addiction medicine before permitting the use of smoked or raw marijuana for ostensibly medicinal purposes”

OF ADDITIONAL CONCERN

- Push for tribes to grow marijuana
- December 2014 - DOJ: Tribes may grow and sell if they follow the same policies required of states with legalized marijuana or medical or recreational use
- February 2015 - Over 100 tribes contacted FoxBarry Farms expressing interest in industry
- Recently - several tribes raided and marijuana seized by federal agents
- Unchartered legal territory

PEYOTE

WHAT ABOUT IT?

- Small cactus: active ingredient is hallucinogen mescaline
- Used as a part of some religious ceremonies
- Effect on the mind: illusions, hallucinations, altered perceptions of space and time, altered body image, euphoria followed by feelings of anxiety

- Effect on body: nausea, vomiting, dilation of pupils, increased heart rate, increased blood pressure, rise in body temperature causing sweating, headaches, muscle weakness, impaired motor coordination
- Abuse: chewed, soaked in water to produce intoxicating liquid, ground into powder and placed inside gel capsules and swallowed. Can be smoked with leaf material like tobacco or cannabis

NATIVE AMERICAN CHURCH

- Mix of traditional and Protestant beliefs and sacramental use of peyote
- Quannah Parker introduced the religion to the Comanche
- NAC movement started in 1880s but formally incorporated in Oklahoma in 1918

LEGAL CHALLENGE

- DHS, Oregon v. Smith (1990)
- Smith and Black members of NAC and drug treatment counselors - terminated for use
- USSC said a state can deny unemployment benefits to a person fired for violating state law prohibiting use of peyote even if used for religious purposes. State could accommodate otherwise illegal acts for religious beliefs, but not obligated

AMERICAN INDIAN RELIGIOUS FREEDOM ACT

- Originally passed in 1978 but amended in 1996
- Indians using, possessing or transporting peyote for bona fide religious purposes in connection with traditional Indian religion is lawful and shall not be prohibited by the US or any State.
- No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including the denial of benefits under public assistance programs

- Law cannot be construed to abrogate, diminish or otherwise affect:
- Inherent rights of any Indian tribe
- Rights of any tribe under treaties, Executive Orders and laws of the US
- Inherent right of Indians to practice their religions
- Right of Indians to practice their religions under any Federal or State law

OTHER CASES

- Gonzales v. O Centro Espirita Beneficiente Uniao Do Vegetal (Union of the Plants), 546 US 418 (2006).
- Church combines Christian spiritualism with Brazilian beliefs
- Hoasca - tea containing hallucinogenic drug DMT (diemethyltryptamine) is sacred - to increase spiritual perception
- Prohibition unlawful under 1993 Religious Freedom Restoration Act
- Criminalization of hoasca substantially burdened the church's religious practices
- CJ Roberts compared hoasca to peyote

CHALLENGE FOR YOU

- Participant is a member of NAC
- Indian Civil Rights Act: No tribe shall ... make or enforce any law prohibiting the free exercise of religion
- Case law
 - Requiring participant to attend AA/NA meeting violates the First Amendment
 - Cannot question sincerity of belief
 - Loss of immunity
 - 2013 case settled with state paying \$1 million and treatment agency paying \$925k (Hazle v. Crofoot, 727 F.3d 983 (9th Cir. 2013)).

ADDERALL

WHAT ABOUT IT?

- Stimulant
- Amphetamine - Adderall and Dexedrine
- Methylphenidate - Concerta and Ritalin
- Diet aids - Didrex, Bontril, Preludin, Fastin, Adipex, Ionomin and Merida

- Effect on Mind: Produce sense of exhilaration, enhance self-esteem, improve mental and physical performance, increase activity, extend wakefulness for prolonged period
- Chronic/high dose use: agitation, hostility, panic, aggression and suicidal and homicidal tendencies; paranoia and sometimes auditory and visual hallucinations

- Effect on the body: reverses the effects of fatigue - mentally and physically, extended wakefulness, loss of appetite
- Side effects: dizziness, tremors, headache, flushed skin, chest pain with palpitations, excessive sweating, vomiting and abdominal cramps
- Overdose: High fever, convulsions and cardiovascular collapse may proceed death

- Abuse: pills or capsules swallowed; smoking, snorting or injection (“rush” or “flash”)
- Accidental death may be due to effect of stimulant on the cardiovascular and temperature-regulating systems and impact of physical exertion

CHALLENGE FOR YOU

- Commonly prescribed for ADHD
- Easy to get - simply go to the doctor and describe symptoms typical of disorder - get Rx
- Available as “immediate release” and “extended release” versions

CONSIDERATIONS

- Discussion may apply to other conditions aside from ADHD
- Some courts require complete abstinence as requirement for participation and graduation - may be placing participants in trouble
- May need to look at maintenance policy
- California - illegal for courts to ban maintenance treatment (opiod replacement therapy)
- Potential ADA issues which make addiction a disability - may require accommodation
- NADCP Best Practices - if adequate treatment is available - do not disqualify candidates because of mental health or medical conditions or because they have been prescribed medication

RESOURCES

- www.tlpi.org
- Adult Drug Court Best Practices, Volume I, NADCP (2013).
- Adult Drug Court Best Practices, Volume II, NADCP (2015).
- www.ndcrc.org
- Drugs of Abuse, USDOJ, DEA (2105).
- Indian Civil Rights Act, 25 U.S.C. sec. 1301 *et seq.*
- www.governing.com
- www.azdhs.gov/medicalmarijuana
- www.lac.org